

Exhibit F

From: [Alex Frawley](#)
To: [Sarah Salomon](#)
Cc: [newyorktimes_microsoft_ohs@orrick.com](#); [NewYorkTimes-Microsoft-FDBR@faegredrinker.com](#); [NYT-AI-SG-Service@simplelists.susmangodfrey.com](#); [openaicopyrightlitigation.lwteam@lw.com](#); [OpenAICopyright@mofo.com](#); [KVP-OAI](#)
Subject: RE: NYT v. Microsoft et al: Times consultants
Date: Monday, December 23, 2024 10:04:19 AM

[EXTERNAL]



Sarah,

We disagree on Mr. Kogan, including for the reasons stated in Emily's December 10 email. It would be unduly burdensome to undertake any separate collection and search of his files (even assuming we could do that) when any documents he possesses are duplicative of documents The Times has already produced (and will continue to produce) from our custodians' files. Moreover, there is no reason to believe that any documents he possesses but did not provide to The Times are relevant.

We do not yet have any update as to BCG but will revert.

Best,

Alex

From: Sarah Salomon (via NYT-AI-SG-Service list) <NYT-AI-SG-Service@simplelists.susmangodfrey.com>
Sent: Monday, December 16, 2024 10:24 PM
To: Emily Cronin <ECronin@susmangodfrey.com>; KVP-OAI <KVPOAI@keker.com>; [openaicopyrightlitigation.lwteam@lw.com](#); [OpenAICopyright@mofo.com](#)
Cc: [newyorktimes_microsoft_ohs@orrick.com](#); [NewYorkTimes-Microsoft-FDBR@faegredrinker.com](#); [NYT-AI-SG-Service@simplelists.susmangodfrey.com](#)
Subject: RE: NYT v. Microsoft et al: Times consultants

EXTERNAL Email

Emily,

Your response as to Mr. Kogan is confusing and circular. You are refusing to ask Mr. Kogan to provide responsive documents for production while at the same time asserting that any responsive documents in his possession are duplicative of those in the Times's files. How could you know that Mr. Kogan's documents are duplicative without even asking for them? Beyond your conclusory assertion that Mr. Kogan's documents are duplicative, you've otherwise offered no basis for your refusal to ask for them. But, the Times's agreement with Mr. Kogan makes clear that any responsive documents he has are within the Times's possession, custody and control. NYT_00156475 (Service Agreement), Sections 2 & 7. If the Times will not change its position as to Mr. Kogan's files, we will be forced to raise this issue with the Court. Let us know by December 18. Please let us know the status of your request to BCG by then as well.

Thanks,

Sarah Salomon
Keker, Van Nest & Peters LLP

633 Battery Street
San Francisco, CA 94111-1809
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ssalomon@keker.com | [vcard](#) | keker.com

From: Emily Cronin <ECronin@susmangodfrey.com>

Sent: Tuesday, December 10, 2024 7:39 PM

To: Sarah Salomon <ssalomon@keker.com>; KVP-OAI <KVPOAI@keker.com>;
openaicopyrightlitigation.lwteam@lw.com; OpenAICopyright@mofo.com

Cc: newyorktimes_microsoft_ohs@orrick.com; NewYorkTimes-Microsoft-FDBR@faegredrinker.com;
NYT-AI-SG-Service@simplelists.susmangodfrey.com

Subject: Re: NYT v. Microsoft et al: Times consultants

[EXTERNAL]

Counsel,

The Times will not agree to ask for duplicative discovery from Mr. Kogan. Any responsive documents in Mr. Kogan's possession, custody, and control are duplicative of documents The Times has already produced (and will continue to produce) from The Times's own custodians' files. The Times's deal team, which is led by existing custodians Sam Felix, Rebecca Grossman-Cohen, and Greg Miller, was responsible for the licensing negotiations on which Mr. Kogan advised. Anything responsive involving Mr. Kogan is already in their files, and The Times is not withholding anything in its possession relating to Mr. Kogan that is relevant, non-privileged, and responsive to discovery The Times agreed to produce. As your email reflects, The Times has already produced a number of these responsive licensing documents already.

Although BCG's internal documents are not within The Times's control and thus not subject to Rule 34 either, *In re NTL, Inc. Securities Lit.*, 244 F.R.D. 179, 196 (S.D.N.Y. 2007), The Times will agree to ask BCG if it is willing to provide The Times with any responsive documents and will let you know their response.

Thanks,
Emily

Emily Cronin Stillman | Susman Godfrey LLP

1900 Avenue of the Stars, Suite 1400

Los Angeles, CA 90067

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From: Sarah Salomon <[SSalomon@keker.com](mailto:ssalomon@keker.com)>
Date: Monday, December 9, 2024 at 9:24 AM
To: Emily Cronin Stillman <ECronin@susmangodfrey.com>, "NYT-AI-SG-Service@simplelists.susmangodfrey.com" <NYT-AI-SG-Service@simplelists.susmangodfrey.com>
Cc: NYT-AI-Microsoft-OC <newyorktimes_microsoft_ohs@orrick.com>, "NewYorkTimes-Microsoft-FDBR@faegredrinker.com" <NewYorkTimes-Microsoft-FDBR@faegredrinker.com>, KVP-OAI <KVPOAI@keker.com>, "openaicopyrightlitigation.lwteam@lw.com" <openaicopyrightlitigation.lwteam@lw.com>, "OpenAICopyright@mofo.com" <OpenAICopyright@mofo.com>
Subject: RE: NYT v. Microsoft et al: Times consultants

EXTERNAL Email

Counsel,

We haven't received a response to the below. Please provide your position by tomorrow.

Thanks,
Sarah

Sarah Salomon
Keker, Van Nest & Peters LLP
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From: Sarah Salomon <[SSalomon@keker.com](mailto:ssalomon@keker.com)>
Sent: Wednesday, November 27, 2024 7:55 AM
To: Emily Cronin <ECronin@susmangodfrey.com>; NYT-AI-SG-Service@simplelists.susmangodfrey.com
Cc: newyorktimes_microsoft_ohs@orrick.com; NewYorkTimes-Microsoft-FDBR@faegredrinker.com; KVP-OAI <KVPOAI@keker.com>; openaicopyrightlitigation.lwteam@lw.com; OpenAICopyright@mofo.com
Subject: NYT v. Microsoft et al: Times consultants

Counsel,

We write with respect to the Times's consultants David Kogan and BCG. The Times's productions to date reflect that Mr. Kogan consulted extensively with the Times on licensing negotiations, including, but not limited to, those with OpenAI, Microsoft, and Google, and received confidential OpenAI information in that context. See, e.g., NYT_00064854 (Meeting invite from Felix to Kogan titled "Prep w Sam for Thurs. NYT/O call" covering "both OAI and

Google."); NYT_00270937 (Email from Felix to Kogan sharing the "BCG Deck" for "Working Session 1"); NYT_00129017 (Email between Felix and Kogan regarding negotiations with Amazon, OpenAI, and Microsoft). The same is true for BCG. See, e.g., NYT_00266481 (discussing the scope of work for developing pricing models for providing data to GenAI companies, including OpenAI, Google, Amazon, and Microsoft); NYT_00266458 (providing an "early" pricing framework with actual amounts "calculated based on current financial/operational performance of OpenAI.").

The Times has recently confirmed that it is conducting a search for documents and communications related to the licensing of its asserted workings for LLM training, and claimed that it is conducting "go get" searches for market-related analyses, reports, and communications relevant to Factor Four. The Times's search for such documents should include any responsive communications and analyses in the possession of Kogan and BCG, which the Times has the "practical ability" to obtain. See *In re NTL, Inc. Sec. Litig.*, 244 F.R.D. 179, 196 (S.D.N.Y. 2007), *aff'd sub nom. Gordon Partners v. Blumenthal*, No. 02 CIV 7377 LAK, 2007 WL 1518632 (S.D.N.Y. May 17, 2007). Please confirm, by December 2, that you are obtaining responsive documents from these consultants. If you disagree that you have the practical ability to do so, please state your basis for that assertion.

Thanks,

Sarah Salomon

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